

MAIL TO:

STATE OF UTAH
 DIVISION OF PURCHASING
 3150 STATE OFFICE BUILDING, CAPITOL HILL
 P.O. BOX 141061
 SALT LAKE CITY, UTAH 84114-1061
 TELEPHONE (801) 538-3026
<http://purchasing.utah.gov>

Invitation to BidSolicitation Number: **PM5010-2**Due Date: **10/19/04 at 2:00 PM.**

Date Sent: September 29, 2004

Goods and services to be
 purchased:

**"IN-LIEU OF PREVIOUS BID" - UDOT REGION 1 AREA TRAFFIC CONTROL SERVICES FOR THE UTAH
 DEPARTMENT OF TRANSPORTATION**

Please complete

Company Name		Federal Tax Identification Number	
Ordering Address	City	State	Zip Code
Remittance Address (if different from ordering address)	City	State	Zip Code
Type <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship <input type="checkbox"/> Government	Company Contact Person		
Telephone Number (include area code)	Fax Number (include area code)		
Company's Internet Web Address	Email Address		
Discount Terms (for bid purposes, bid discounts less than 30 days will not be considered)	Days Required for Delivery After Receipt of Order (see attached for any required minimums)		
<p>The following documents are included in this solicitation: Solicitation forms, instructions and general provisions, and specifications. <u>Please review all documents carefully before completing.</u></p> <p>The undersigned certifies that the goods or services offered are produced, mined, grown, manufactured, or performed in Utah. Yes_____ No_____. If no, enter where produced, etc._____</p>			
Offeror's Authorized Representative's Signature		Date	
Type or Print Name		Position or Title	

STATE OF UTAH
DIVISION OF PURCHASING

Invitation to Bid

Solicitation Number: PM5010-1

Due Date: 09/14/04

Vendor Name:

Item#	Qty	Unit	Description	Unit Price	Extension
001	1.00	JOB	"IN-LIEU OF PREVIOUS BID" -TRAFFIC CONTROL SERVICES FOR UDOT'S REGION 1 AREA, WHICH IS FROM DAVIS/SALT LAKE COUNTY LINE NORTH, PER ATTACHED SPECIFICATIONS.	\$	\$

THIS BID WILL RESULT IN A N AGENCY CONTRACT FOR ONE YEAR WITH THREE ONE YEAR RENEWAL OPTIONS.

WITH TECHNICAL QUESTIONS OR FOR CLARIFICATION PLEASE CONTACT DEBRA BOULTON AT 801-965-4070.

WITH PURCHASING QUESTIONS OR FOR CLARIFICATION PLEASE CONTACT PAUL MASH AT 801-538-3138.

REFERENCE RX: 810 56000000010

INVITATION TO BID - INSTRUCTION AND GENERAL PROVISIONS

1. BID PREPARATION: (a) All prices and notations must be in ink or typewritten. (b) Price each item separately. Unit price shall be shown and a total price shall be entered for each item bid. Errors may be crossed out and corrections printed in ink or typewritten adjacent and must be initialed in ink by person signing quotation. (c) Unit price will govern, if there is an error in the extension. (d) Delivery time is critical and must be adhered to as specified. (e) Wherever in this document an item is defined by using a trade name of a manufacturer and/or model number, it is intended that the words, "or equivalent" apply. "Or equivalent" means any other brand that is equal in use, quality, economy and performance to the brand listed as determined by the Division of Purchasing & General Services (DIVISION). If the vendor lists a trade name and/or catalog number in the bid, the DIVISION will assume the item meets the specifications unless the bid clearly states it is an alternate, and describes specifically how it differs from the item specified. All bids must include complete manufacturer's descriptive literature if quoting an equivalent product. All products are to be of new, unused condition, unless otherwise requested in this solicitation. (f) By signing the bid the vendor certifies that all of the information provided is accurate, that they are willing and able to furnish the item(s) specified, and that prices quoted are correct. (g) This bid may not be withdrawn for a period of 60 days from bid due date.

2. SUBMITTING THE BID: (a) The bid must be signed in ink, sealed in a properly-addressed envelope, and either mailed or delivered to the DIVISION OF PURCHASING, 3150 State Office Building, Capitol Hill, Salt Lake City, UT 84114-1061 by the "Due Date and Time." **The "Bid Number" and "Due Date" must appear on the outside of the envelope.** (b) Bids, modifications, or corrections received after the closing time on the "Due Date" will be considered late and handled in accordance with the Utah Procurement Rules, section R33-3-109. (c) **Your bid will be considered only if it is submitted on the forms provided by the state. Facsimile transmission of bids to DIVISION will not be considered.** (d) All prices quoted must be both F.O.B. Origin per paragraph 1.(c) and F.O.B. Destination. Additional charges including but not limited to delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, costs of bonds, or for any other purpose must be included in the bid for consideration and approval by the DIVISION. Upon award of the contract, the shipping terms will be F.O.B. Destination, Freight Prepaid with freight charges to be added to the invoice unless otherwise specified by the DIVISION.

3. SOLICITATION AMENDMENTS: All changes to this solicitation will be made through written addendum only. Bidders are cautioned not to consider verbal modifications.

4. PROPRIETARY INFORMATION: Suppliers are required to mark any specific information contained in their bid which is not to be disclosed to the public or used for purposes other than the evaluation of the bid. Each request for nondisclosure must be accompanied by a specific justification explaining why the information is to be protected. Pricing and service elements of any bid will not to be considered proprietary. Bids submitted may to be reviewed and evaluated by any persons at the discretion of the state.

5. SAMPLES: Samples of item(s) specified in this bid, when required by DIVISION, must to be furnished free of charge to DIVISION. Any item not destroyed by tests may, upon request made at the time the sample is furnished, to be returned at the bidder's expense.

6. WARRANTY: The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah applies to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special

purposes that the State has relied on the contractor's skill or judgement to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.

7. DIVISION APPROVAL: Purchase orders placed, or contracts written, with the state of Utah, as a result of this bid, will not to be legally binding without the written approval of the director of the DIVISION.

8. AWARD OF CONTRACT: (a) the contract will to be awarded with reasonable promptness, by written notice, to the lowest responsible bidder that meets the specifications. Consideration will to be given to the quality of the product(s) to be supplied, conformity to the specifications, the purpose for which required, delivery time required, discount terms and other criteria set forth in this invitation to bid. (b) The bids are opened publicly in the presence of one or more witnesses. the name of each bidder, and the amount of the bid is recorded. Each bid, and the record, is open to public inspection. (c) The DIVISION may accept any item or group of items, or overall low bid. the DIVISION has the right to cancel this invitation to bid at any time prior to the award of contract. (d) The DIVISION can reject any and all bids. And it can waive any informality, or technicality in any bid received, if the DIVISION believes it would serve the best interest of the State. (e) Before, or after, the award of a contract the DIVISION has the right to inspect the bidder's premises and all business records to determine the holder's ability to meet contract requirements. (f) DIVISION does not guarantee to make any purchase under awarded contract(s). Estimated quantities are for bidding purposes only, and not to be interpreted as a guarantee to purchase any amount. (g) Utah has a reciprocal preference law which will to be applied against bidders bidding products or services produced in states which discriminate against Utah products. For details see Section 63-56 20.5 -20.6, Utah Code Annotated.

9. ANTI-DISCRIMINATION ACT: The bidder agrees to abide by the provisions of the Utah Anti-discrimination Act, Title 34 Chapter 35, U.C.A. 1953, as amended, and Title VI and Title VII of the Civil Rights Act of 1964 (42 USC2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age, and Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disabilities. Also bidder agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the workplace. Vendor must include this provision in every subcontract or purchase order relating to purchases by the State of Utah to insure that the subcontractors and vendors are bound by this provision.

10. DEBARMENT: The CONTRACTOR certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the CONTRACTOR cannot certify this statement, attach a written explanation for review by the STATE.

11. GOVERNING LAWS AND REGULATIONS: All state purchases are subject to the Utah Procurement Code, Title 63 Chapter 56 U.C.A. 1953, as amended, and the Procurement Regulations as adopted by the Utah State Procurement Policy Board. These are available on the Internet at www.purchasing.utah.gov

(Revision 14 Mar 2003 - IFB Instructions)

ATTACHMENT A: STANDARD TERMS AND CONDITIONS

1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63-56, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the State to purchase certain specified services, and other approved purchases for the State.
2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** Any and all supplies, services and equipment furnished will comply fully with all applicable Federal and State laws and regulations.
4. **RECORDS ADMINISTRATION:** The Contractor shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this contract. These records shall be retained by the Contractor for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. The Contractor agrees to allow State and Federal auditors, and State Agency Staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
5. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with 67-16-8, Utah Code Annotated, 1953, as amended.
6. **CONTRACTOR, AN INDEPENDENT CONTRACTOR:** The Contractor shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the State to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the State, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the Contractor by the State. The Contractor shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the State for these contract services. Persons employed by the State and acting under the direction of the State shall not be deemed to be employees or agents of the Contractor.
7. **INDEMNITY CLAUSE:** The Contractor agrees to indemnify, save harmless, and release the State OF UTAH, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the negligence of the Contractor's officers, agents, volunteers, or employees, but not for claims arising from the State's sole negligence.
8. **EQUAL OPPORTUNITY CLAUSE:** The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the work place.
9. **SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.
10. **RENEGOTIATION OR MODIFICATIONS:** This contract may be amended, modified, or supplemented only by written amendment to the contract, executed by the same persons or by persons holding the same position as persons who signed the original agreement on behalf of the parties hereto, and attached to the original signed copy of the contract.
11. **DEBARMENT:** The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by the State. The Contractor must notify the State Director of Purchasing within 30 days if debarred by any governmental entity during the Contract period.
12. **TERMINATION:** Unless otherwise stated in the Special Terms and Conditions, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either party, upon 90 days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.
13. **NONAPPROPRIATION OF FUNDS:** The Contractor acknowledges that the State cannot contract for the payment of funds not yet appropriated by the Utah State Legislature. If funding to the State is reduced due to an order by the Legislature or the Governor, or is required by State law, or if federal funding (when applicable) is not provided, the State may terminate this contract or proportionately reduce the services and purchase obligations and the amount due from the State upon 30 days written notice. In the case that funds are not appropriated or are reduced, the State will reimburse Contractor for products delivered or services performed through the date of cancellation or reduction, and the State will not be liable for any future commitments, penalties, or liquidated damages.
14. **SALES TAX EXEMPTION:** The State of Utah's sales and use tax exemption number is E33399. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.
15. **WARRANTY:** The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable

for any special purposes that the State has relied on the contractor's skill or judgment to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.

16. **PUBLIC INFORMATION:** Contractor agrees that the contract will be a public document, and may be available for distribution, and Contractor gives the State express permission to make copies of the contract and/or of the response to the solicitation in accordance with the State of Utah Government Records Access and Management Act. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.
17. **DELIVERY:** Unless otherwise specified in this contract, all deliveries will be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the State except as to latent defects, fraud and Contractor's warranty obligations.
18. **ORDERING AND INVOICING:** All orders will be shipped promptly in accordance with the delivery schedule. The Contractor will promptly submit invoices (within 30 days of shipment or delivery of services) to the State. The State contract number and/or the agency purchase order number shall be listed on all invoices, freight tickets, and correspondence relating to the contract order. The prices paid by the State will be those prices listed in the contract. The State has the right to adjust or return any invoice reflecting incorrect pricing.
19. **PAYMENT:** Payments are normally made within 30 days following the date the order is delivered or the date a correct invoice is received, whichever is later. All payments to the Contractor will be remitted by mail unless paid by the State of Utah's Purchasing Card.
20. **PATENTS, COPYRIGHTS, ETC.:** The Contractor will release, indemnify and hold the State, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this contract.
21. **ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the State.
22. **DEFAULT AND REMEDIES:** Any of the following events will constitute cause for the State to declare Contractor in default of the contract:
 1. Nonperformance of contractual requirements;
 2. A material breach of any term or condition of this contract. The State will issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains, after Contractor has been provided the opportunity to cure, the State may do one or more of the following:
 1. Exercise any remedy provided by law;
 2. Terminate this contract and any related contracts or portions thereof;
 3. Impose liquidated damages, if liquidated damages are listed in the contract;
 4. Suspend Contractor from receiving future solicitations.
23. **FORCE MAJEURE:** Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The State may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.
24. **PROCUREMENT ETHICS:** The Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State, or who in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (63-56-73, Utah Code Annotated, 1953, as amended).
25. **CONFLICT OF TERMS:** Contractor Terms and Conditions that apply must be in writing and attached to the contract. No other Terms and Conditions will apply to this contract including terms listed or referenced on a Contractor's website, terms listed in a Contractor quotation/sales order, etc. In the event of any conflict in the contract terms and conditions, the order of precedence shall be: 1. State Standard Terms and Conditions; 2. State Special Terms and Conditions; 3. Contractor Terms and Conditions.

(Revision date: Nov 21, 2003)

ATTACHMENT A: STANDARD TERMS AND CONDITIONS

1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63-56, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the State to purchase certain specified services, and other approved purchases for the State.
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3. **LAWS AND REGULATIONS:** Any and all supplies, services and equipment furnished will comply fully with all applicable Federal and State laws and regulations.
4. **RECORDS ADMINISTRATION:** The Contractor shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this contract. These records shall be retained by the Contractor for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. The Contractor agrees to allow State and Federal auditors, and State Agency Staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
5. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with 67-16-8, Utah Code Annotated, 1953, as amended.
6. **CONTRACTOR, AN INDEPENDENT CONTRACTOR:** The Contractor shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the State to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the State, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the Contractor by the State. The Contractor shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the State for these contract services. Persons employed by the State and acting under the direction of the State shall not be deemed to be employees or agents of the Contractor.
7. **INDEMNITY CLAUSE:** The Contractor agrees to indemnify, save harmless, and release the State OF UTAH, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the negligence of the Contractor's officers, agents, volunteers, or employees, but not for claims arising from the State's sole negligence.
8. **EQUAL OPPORTUNITY CLAUSE:** The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the work place.
9. **SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.
10. **RENEGOTIATION OR MODIFICATIONS:** This contract may be amended, modified, or supplemented only by written amendment to the contract, executed by the same persons or by persons holding the same position as persons who signed the original agreement on behalf of the parties hereto, and attached to the original signed copy of the contract.
11. **DEBARMENT:** The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by the State. The Contractor must notify the State Director of Purchasing within 30 days if debarred by any governmental entity during the Contract period.
12. **TERMINATION:** Unless otherwise stated in the Special Terms and Conditions, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either party, upon 90 days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.
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- 14. SALES TAX EXEMPTION:** The State of Utah's sales and use tax exemption number is E33399. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.
- 15. WARRANTY:** The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the contractor's skill or judgment to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.
- 16. PUBLIC INFORMATION:** Contractor agrees that the contract will be a public document, and may be available for distribution. and Contractor gives the State express permission to make copies of the contract and/or of the response to the solicitation in accordance with the State of Utah Government Records Access and Management Act. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.
- 17. DELIVERY:** Unless otherwise specified in this contract, all deliveries will be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the State except as to latent defects, fraud and Contractor's warranty obligations.
- 18. ORDERING AND INVOICING:** All orders will be shipped promptly in accordance with the delivery schedule. The Contractor will promptly submit invoices (within 30 days of shipment or delivery of services) to the State. The State contract number and/or the agency purchase order number shall be listed on all invoices, freight tickets, and correspondence relating to the contract order. The prices paid by the State will be those prices listed in the contract. The State has the right to adjust or return any invoice reflecting incorrect pricing.
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- 20. PATENTS, COPYRIGHTS, ETC.:** The Contractor will release, indemnify and hold the State, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this contract.
- 21. ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the State.
- 22. DEFAULT AND REMEDIES:** Any of the following events will constitute cause for the State to declare Contractor in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract. The State will issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains, after Contractor has been provided the opportunity to cure, the State may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages, if liquidated damages are listed in the contract; 4. Suspend Contractor from receiving future solicitations.
- 23. FORCE MAJEURE:** Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The State may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.
- 24. PROCUREMENT ETHICS:** The Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State, or who in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (63-56-73, Utah Code Annotated, 1953, as amended).
- 25. CONFLICT OF TERMS:** Contractor Terms and Conditions that apply must be in writing and attached to the contract. No other Terms and Conditions will apply to this contract including terms listed or referenced on a Contractor's website, terms listed in a Contractor quotation/sales order, etc. In the event of any conflict in the contract terms and conditions, the order of precedence shall be: 1. State Standard Terms and Conditions; 2. State Special Terms and Conditions; 3. Contractor Terms and Conditions. (Revision date: Nov 21, 2003)

ATTACHMENT B: SCOPE OF WORK

PART 1 GENERAL

1.1 SECTION INCLUDES

A. This contract shall consist of providing and maintaining temporary traffic control devices for maintenance activities on the interstate freeway and other high traffic volume systems, plus all equipment and vehicles necessary. This contract will be for one year with three one year renewal options.

B. A traffic control supervisor, certified by the Department of Transportation or the American Traffic Safety Services Association with two years experience shall be present at all traffic control installations.

C. All communications between the Contractor and the Station Supervisors will be recorded in the Station Supervisor's diary and be signed by both parties.

D. The Contractor shall meet with the Station Supervisor at the job site within 18 hours after notification to determine the requirements for traffic control devices.

E. All devices shall be in place within 24 hours of notification to proceed. They shall be placed in accordance with UDOT Standard Drawings and Specifications, the MUTCD and/or an approved traffic control plan from the Traffic Engineer.

F. Signs and barricades shall be accordance with the State's Standard Specifications.

G. In an emergency situation, the Station Supervisor will notify the Contractor of the location, the extent of traffic control needed, the required signs, barricades and advance warning devices. The Contractor shall have traffic control set up within one hour of notification.

H. The Contractor shall at all times conduct his work to protect the safety of the traveling public, residents and property to ensure minimal obstructions to traffic.

I. The Contract shall monitor, inspect and maintain all traffic control devices at least every ½ hour.

J. Contract shall provide enough labor, equipment and material to be able to do at least six set ups in different locations in a day as required.

K. Traffic Control devices to be established and operated only during those times specified by the Area-Supervisor, Shed Foreman, Shed Lead or Region Traffic Engineer.

PART 2 CONTROL OF WORK

2.1 AUTHORITY AND DUTIES OF THE REGION

A. The State will decide all questions regarding the quality and acceptability of materials furnished, work performed, rate of work progress, interpretation of the contract documents and the acceptable fulfillment of the contract.

B. The State has the authority by written order to suspend the work without liability to the Department wholly or in part if the Contractor fails to:

1. Correct conditions unsafe for the project personnel or the public.
2. Complete contract provisions.
3. Comply with the Region's orders.

C. The State can suspend work wholly or in part for:

1. Periods of unsuitable weather.
2. Conditions unsuitable for the prosecution of the work.
3. Any other condition or reason determined to be in the State's interest.

2.2 CONTRACTORS COOPERATION

A. Facilitate progress of the work and cooperate with the Station Supervisors.

B. Supply all necessary resources to complete the contract regardless of the amount of work sublet.

2.3 DUTIES OF THE STATION SUPERVISORS

A. Supervisors and leads are authorized to inspect all work and materials furnished.

1. Inspection may extend to the preparation, fabrication or manufacture of the materials to be used.
2. Supervisors and leads are not authorized to alter or waive the contract provisions, to issue instructions contrary to the contract or to act as foreman for the Contractor.

3. Supervisors and leads are authorized to reject work or materials until any issue in question can be referred to and decided by the Region.

2.4 INSPECTION OF THE WORK

A. Provide safe access to all parts of the work and provide information and assistance to the State to ensure a complete and detailed inspection.

2.5 REMOVAL OF UNACCEPTABLE AND UNAUTHORIZED WORK

A. Remove and replace any unacceptable work. Work will be considered unacceptable if it fails to meet the contract requirements.

B. Work performed contrary to the State's instruction, work beyond plan limits or extra work performed without the State's permission:

1. Is excluded from pay consideration.
2. May be ordered removed, restored or replaced by others at the Contractor's expense.

2.6 LOAD RESTRICTIONS

A. Observe legal load restrictions when hauling equipment or materials on public roads beyond project limits:

1. A special permit does not decrease Contractor liability for damage.
2. Refer to the "Utah Regulations for Legal and Permitted Vehicles".

B. Do not exceed legal gross weight limits on any public roads, structures or on any component of the pavement structure excluding granular borrow.

C. Suspend construction operations when load restriction violations are observed until acceptable corrective measures are approved by the Engineer.

TRAFFIC CONTROL SUPERVISOR

PART 1 GENERAL

1.1 SECTION INCLUDES

- A. Traffic Control Supervisor.
- B. Must be certified by the State or by the American Traffic Safety Services, have two years of experience and have proof of certification on person at all times.
- C. Authority:
 - 1. Obtains and uses all labor, equipment and materials necessary to maintain traffic control as specified by the Station Supervisor ordering the traffic control.
- D. Responsibilities and duties include but not limited to:
 - 1. Oversees all traffic control operations.
 - 2. Remains available 24 hours a day, seven days per week and can be on-site within 45 minutes of notification.
 - 3. Corrects deficiencies within specified time not to exceed 24 hours.
 - 4. Inspects all traffic control devices at least every half-hour.
 - 5. Completes a daily record of traffic control activities using a form acceptable to the Station Supervisor.

TRAFFIC CONTROL

PART 1 GENERAL

1.1 SECTION INCLUDES

- A. Furnish, install, relocate, maintain and remove work zone traffic control devices as required.
- B. Advance warning arrow panel - Type "C" stationary.
- C. Construction sign.
- D. Barricade - Type II and Type III.
- E. Plastic barrels.

1.2 REFERENCES

- A. Manual on Uniform Traffic Control Devices, Latest Edition (MUTCD).
- B. Utah Department of Transportation, Standard Specifications for Road and Bridge Construction, latest edition.
- C. Utah Department of Transportation Standard Drawings.

PART 2 PRODUCTS

2.1 ADVANCE WARNING ARROW PANEL - TYPE "C" STATIONARY

- A. Advance warning device:
 - 1. Sign panel:
 - a. Hooded, amber colored design with sealed beam units attached.
 - b. Non-reflective black finish.
 - 2. Circuitry control unit:
 - a. Solid state unit capable of displaying "pass either side", "warning" and at least one of the "pass right" or "pass left" modes.
 - b. Light bulbs must be the same intensity.
 - c. Arrow panels equipped with a photoelectric cell activated by ambient light only and shielded from direct headlights. Must automatically dim the pane; to 50 percent of rated voltage at night.
 - d. Lamp flashing rate of 25 to 40 flashes per minute.

- e. Warning mode flash frequency of approximately 22 times per minute.
 - f. Minimum “on-time” lamp duration of 50 percent for flashing arrow and 25 percent for sequential chevron.
- 3. Mounting frame on a pneumatic tire vehicle:
 - a. 6.8 ft clearance between the bottom edge of the sign panel and the roadway surface.
 - b. Frame and sign panel able to withstand 80 mph sustained winds and 104 mph intermittent gusts from any direction.
 - c. Panel capable of rotation on a horizontal axis.

2.2 CONSTRUCTION SIGN

- A. Refer to appropriate sections of the MJTCD and UDOT Standard Specifications.

2.3 BARRICADE - TYPE II AND TYPE III

- A. Refer to appropriate sections of the MUTCD and UDOT Standard Specifications.

2.4 PLASTIC BARRELS

- A. Refer to appropriate sections of the MUTCD and UDOT Standard Specifications.

PART 3 EXECUTION

3.1 ADVANCE WARNING ARROW PANEL - TYPE “C” STATIONARY

- A. Place in view of oncoming traffic without obstructing traffic flow.
- B. Remove from designated clear zone when not in use.

3.2 TRAFFIC CONTROL DEVICES

- A. Installing:
 - 1. Install traffic control devices by the time specified by the Station Supervisor.
 - 2. Maintain to ensure proper, continuous function.
 - 3. Wash devices weekly unless conditions warrant more frequent cleaning.
 - 4. Replace any device missing any part of the message or background.

B. Channelizing devices: Use Type II barricades or drums. Use drums for taper on I-15, I-80 and I-215.

C. Furnish a daily record of the number and location of all traffic control devices in use.

D. Remove the devices from the designated clear zones when no longer required.

CHANGEABLE MESSAGE BOARD

PART 1 GENERAL

1.1 SECTION INCLUDES

- A. Furnish, operate and maintain a changeable message board powered by either gas, diesel or solar energy.

PART 2 PRODUCTS

2.1 DIESEL ENGINE

- A. Diesel engine, 5 HP, electric start with independent 12 volt battery.
 - 1. Safety shutdown for high temperature, low oil pressure or low oil level with a fuel filter.
 - 2. Auto start system: sign runs on battery power, system senses low battery and starts engines to recharge batteries. Shuts down when batteries are at full charge. Provides for an automatic start at low ambient temperatures.
 - a. Provision for operation on 120 vac power when available.

2.2 SOLAR POWER

- A. To have six (6) each, 75 watts high efficiency single crystal silicon cell panels minimum.

2.3 BATTERY

- A. To have sixteen (16) each. Six (6) volts, 217 amps, flooded, lead acid, deep cycle heavy duty batteries.

2.4 CHARGER

- A. To have built in charge capable of completely recharging the entire system from a default condition in less than 24 hours.

2.5 COMPLETE UNIT DIMENSION

- A. To be approximately 7.8 feet high in travel position.
- B. To be 13 feet minimum, high in raised position.
- C. To be approximately 12 feet long.

- D. To be 8 feet wide in travel position.
- E. To be between 9 feet and 10 feet wide in display position.
- F. Withstand wind gusts to 80 mph in display position with all jack stands set.

2.6 MESSAGE BOARD DIMENSIONS

- A. Overall - Approximately 6.3 feet high by 9.4 feet wide and 10 inches deep.
 - B. Characters - To have three lines of eight characters each (approximately). Each character displayed in each line is clearly visible from 900 feet minimum.
 - C. For night operations the board is to be illuminated by high output LED lights.
- D. Board to be enclosed in weather tight housing with clear polycarbonate front.

2.7 SIGN CONTROLLER

- A. Standard keyboard input. Keyboard designed for weather resistance.
- B. To have LCD display, eight lines by 40 characters approximately.
 - C. Control of sign display including:
 - 1. Selecting stored standard messages.
 - 2. Creating messages with 64K of CMOS EPROM memory minimum.
 - 3. Sequence message.
 - 4. Controlling display time and flashing.
 - 5. Selecting arrows.
 - 6. Automatic control of lights. A password must be entered into the controller by the operator to modify sign message information.
 - 7. The dot-sign is unaffected by all types of RF interference. Other functions as standard for unit.

PART 3 EXECUTION

- A. Place as per UDOT Standard Drawings and Specifications, MUTCD or as directed by the Station Supervisor, Station Lead or the Region 1 Traffic Engineer.
- B. Set required message.

1. Distances, when required, shall be shown in miles.

C. Place in view of oncoming traffic without obstructing traffic.

D. Remove board from view of oncoming traffic when not in use.

TRUCK MOUNTED IMPACT ATTENUATOR

PART 1 GENERAL

1.1 SECTION INCLUDES

- A. Provide operator and truck mounted attenuator. Truck mounted impact attenuator protection for moving construction in the traffic stream.

1.2 RELATED SECTIONS

- A. Advance warning arrow panel.

PART 2 PRODUCTS

- A. Truck mounted impact attenuator:
 - 1. Attach an advance warning arrow panel. Refer to proper section.
 - 2. Support vehicle weight of a minimum 15,000 lbs. to a maximum of 35,000 lbs.
 - 3. Attach 6 feet by 3 feet 'SLOW MOVING VEHICLE AHEAD' sign (black on orange), with letters 6 inches.
 - 4. Sign shall be mounted on the back of the attenuator truck.
 - 5. Truck mounted impact attenuator shall not be a distance less than 200 feet or more than 500 feet from vacuum/broom.

PART 3 EXECUTION

- A. Truck mounted impact attenuator is required during all construction and cleanup activities that are taking place in the traffic stream.

LIGHT PLANT

PART 1 GENERAL

1.1 SECTION INCLUDES

- A. Furnish, install, relocate and maintain lights as required.

1.2 REFERENCES

- A. Manual on Uniform Traffic Control Devices, latest edition.
- B. UDOT Standard Drawings and Specifications.

PART 2 PRODUCTS

2.1 LIGHT PLANT

- A. Use portable (trailer mounted) electric generator operated or propane flood light systems approved by the project engineer.

PART 3 EXECUTION

- A. Installing:
 - 1. Place light plants at locations specified by the Station Supervisor.
 - 2. Determine adequacy of lighting system by driving through and observing the flood lighting area from each direction on the highway.
 - 3. Position lighting systems so that they do not cause glare to drivers on the highway.
- B. Furnish a daily record of the number and location of all devices in use.
- C. Remove from the designated clear zone when not in use.

SPEED MONITORING DEVICES

PART 1 GENERAL

1.1 SECTION INCLUDES

- A. Furnish, install, relocate and maintain speed monitoring devices as required.

PART 2 PRODUCTS

2.1 SPEED MONITORING DEVICE

- A. Use a speed monitoring device consisting of a trailer that contains a radar, batteries, speed boards, speed signs and a seven segment LED display from 18 inches to 10 inches tall, and includes a solar panel for conversion into electricity. Shall be approved by the Station Supervisor.

PART 3 EXECUTION

3.1 SPEED MONITORING DEVICE

- A. Installing:
 - 1. Place speed monitoring device at locations specified by the Station Supervisor.
 - 2. Position device to be visible in direct sunlight from a distance of 1,000 feet.
 - 3. Must have sufficient processing ability to track and the display shall be capable of flashing a maximum speed as defined by the Station Supervisor or Station Lead.
- B. Furnish a daily record of the number and location of all devices in use.
- C. Remove from the designated clear zone when not in use.

ATTACHMENT C: ITEMIZED PRICE LIST

Item #	Item Description	Units	Quantity	Unit Price
1	Traffic Control Supervisor	Hour	2,000	
2	Construction Sign	ft ² *d	65,000	
3	Plastic Barrels	Dev*d	25,000	
4	Barricades - Type II	Dev*d	1,000	
5	Barricades - Type III	ft*d	8,000	
6	Advance Warning Arrow Type C - Stationary	Hour	6,000	
7	Changeable Message Board	Hour	3,000	
8	Truck Mounted Impact Attenuator	Hour	50	
9	Light Plant	Hour	250	
10	Speed Monitoring Device	Hour	4,000	

NOTES:

ft²*d - one square foot of sign face installed for one calendar day or part of calendar day. The number of square feet of each sign will be computed to the nearest tenth of a square foot. Each day the sum of the area of all the in place sign faces will be rounded to the next whole square for payment purposes.

Dev*d - is defined as the number of devices used to control, direct or warn traffic per calendar day or part of calendar day.

ft*d - is defined as the number of linear feet of barricade placed per calendar day or part of a calendar day.

ATTACHMENT D: SPECIAL TERMS AND CONDITIONS

1. **CONTRACT ACCEPTANCE**: At the time the bid form is signed by the Offeror, the signature of the Offeror will be used as a legally binding signature, if awarded the contract. When signed by the Division of Purchasing/General Services and a Utah Department of Transportation representative and assigned a contract number, this document will become a legally binding contract for the period specified.
2. **CONTRACT INCLUSION**: The bid document, its terms and conditions as well as any counter offers which are accepted/acceptable to the State, shall be incorporated into and by reference become a part of this contract as though set forth in full herein.
3. **QUANTITY OR AMOUNT ESTIMATES**: The State does not guarantee to purchase any amount under this contract. Estimated amounts are for bidding purposes only and are not to be construed as a guarantee to purchase any amount.
4. **PRICING**: The Contractor agrees that the prices bid on materials/services in this contract shall be guaranteed for one year.

ANY CHANGE REQUEST ON PRICES MUST GUARANTEE THE PRICE FOR THE SAME LENGTH OF TIME AS INDICATED ABOVE AND MUST BE MADE AT LEAST THIRTY (30) DAYS PRIOR TO THE REQUESTED EFFECTIVE DATE. ANY SUCH REQUEST MUST INCLUDE SUFFICIENT DOCUMENTATION SUPPORTING THE REQUEST. REQUESTS FOR CHANGE ON ANY PRICING IN THIS CONTRACT SHALL NOT BE EFFECTIVE UNTIL IT IS APPROVED BY THE PROCUREMENT SUPERVISOR OR THE PROCUREMENT MANAGER OF THE UTAH DEPARTMENT OF TRANSPORTATION.

5. **WAGES**: The Contractor shall be responsible for all applicable company wages in accordance with the federal, state, and local laws and ordinances.
6. **INVOICING**: **THE CONTRACT NUMBER AND ORDER NUMBER MUST APPEAR ON ALL INVOICES, BILLS OF LADING, PACKAGES AND ALL CORRESPONDENCE RELATING TO EACH ORDER AND DELIVERY.**

The State reserves the right to adjust incorrect invoices. The Contractor shall submit invoices to the Utah Department of Transportation, Region One, 166 West Southwell Street, Ogden, Utah, 84404. The State will remit payment by mail.

ATTACHMENT D: SPECIAL TERMS AND CONDITIONS

7. **NON-ASSIGNMENT**: The Contractor shall not sublet, assign or transfer any part of the contract without prior written approval from the Procurement Supervisor or the Procurement Manager of the Utah Department of Transportation. The provision of monies due under this contract shall not be assignable without prior written approval from the Procurement Supervisor or the Procurement Manager of the Utah Department of Transportation.
8. **NON-COMPETE CLAUSE**: The Contractor represents its officers and employees are free to contract with the State and are not subject to restrictions by the terms of their present employment including, but not limited to an agreement not to compete for a period of time unless disclosure has been made. A Contractor must disclose to the State any possible conflict, in writing, before the contract is signed and the State will evaluate whether to continue with contract execution. The State may elect to terminate a contract immediately with a Contractor who is subsequently determined to be subject to such restrictions without liability to the State. If the State elects to terminate a contract for this reason, the State will supersede paragraph #12 in Attachment A - Standard Terms and Conditions and will not provide 30 day prior notice to the Contractor.
9. **LIQUIDATED DAMAGES**: Contractor shall be penalized for causing any delay in setting up or placing traffic control. If the traffic control is not in place by the time specified by the State, Contractor shall be assessed \$500.00 for each half hour over the time specified. This clause also applies to “emergency situations” and “normal set up”. The State will keep time records.